

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-47202

MARK C. GILCHRIST, and
BRENDA GILCHIRST,

Chapter 7

Judge Thomas J. Tucker

Debtors.

MARK C. GILCHRIST, and
BRENDA GILCHIRST,

Plaintiffs,

v.

Adv. Pro. No. 09-4411

BANK OF AMERICA NATIONAL
ASSOCIATION and WELLS FARGO HOME
MORTGAGE,

Defendants.

**ORDER STAYING FURTHER PROCEEDINGS
IN THIS ADVERSARY PROCEEDING
UNTIL THE AUTOMATIC STAY NO LONGER APPLIES**

On March 12, 2009, Debtors filed a voluntary petition for relief under Chapter 13, initiating bankruptcy Case No. 09-47202, and a complaint initiating this adversary proceeding. On April 27, 2009, the Debtors voluntarily converted their bankruptcy case from Chapter 13 to Chapter 7. Charles L. Wells, III is the Chapter 7 trustee.

The claim(s) that Debtors are asserting in this adversary proceeding appear to be property of the bankruptcy estate in their pending Chapter 7 case. *See, e.g., In re Stinson*, 221 B.R. 726, 729 (Bankr. E.D. Mich. 1998); *see generally* 11 U.S.C. § 541. Debtors have not claimed any exemption in the claim(s), and the Chapter 7 trustee has not abandoned the claim(s). Therefore,

only the Chapter 7 trustee may prosecute the claim(s), and Debtors' continuing prosecution of these claims would violate the automatic stay, under 11 U.S.C. § 362(a)(3). *See Stinson*, 221 B.R. at 730-31.

Accordingly,

IT IS ORDERED that further proceedings in this adversary proceeding are stayed, unless and until the automatic stay no longer applies.¹

Signed on June 05, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge

¹ Unless relief from the automatic stay is granted under 11 U.S.C. § 362(d), "the stay of an act against property of the estate under subsection (a) of this section continues until such property is no longer property of the estate[.]" 11 U.S.C. § 362(c)(1).